

**United States District Court****for****Southern District of Ohio****Petition for Warrant or Summons for Offender Under Supervision**Name of Offender: **Germelle Dewberry**Case Number: **CR-1-00-070-03**Name of Sentencing Judicial Officer: **The Honorable Susan J. Dlott**  
**United States District Judge**Date of Original Sentence: **February 22, 2001**Original Offense: **Conspiracy to Distribute Marijuana, Cocaine, and Cocaine Base , in violation of 21 USC §§ 846 and 841(a)(1) and (b)(1)(C), a class C felony.**Original Sentence: **60 months BOP confinement, 3 years supervised release**Type of Supervision: **Supervised Release**Date Supervision Commenced: **January 7, 2005**Assistant U.S. Attorney: **Robert C. Brichler, esq**Defense Attorney: **Scott A. Wolf, esq.****PETITIONING THE COURT**

- To issue a warrant  
 To issue an Order to Appear and Show Cause  
 To grant an exception to revocation without a hearing.

Violation NumberNature of Noncompliance

#1

**New Law Violation:**

1) On May 17, 2006, Dewberry pled no contest, and was found guilty of Driving Under the Influence (DUI) from an incident that occurred on June 19, 2005. Dewberry was sentenced to 180 days confinement of which 177 days was suspended in lieu of a 6 month term of probation with a required 3 day placement in the driving intervention program. It should be noted, on August 9, 2006, a probation revocation hearing was held due to Dewberry failing to register and complete the drivers intervention program and failing to report. He was sentenced to 60 days confinement concurrent with the charges listed below, and the probation was terminated.

The facts are, that on June 19, 2005, Dewberry was found to be operating a motor vehicle under the influence of alcohol. Upon being stopped by the police, Dewberry stated to the officer that his name was Gawn Dewberry (his brother) and gave his brother's social security number and date of birth. The confusion resulted in an investigation of Dewberry's actual identity, and in December 2005, Dewberry was formerly charged with the DUI offense along with Falsification. The falsification was dismissed in exchange for dewberry's no contest plea.

2) On July 26, 2006, Dewberry was cited by the Cincinnati Police for Driving

Under Suspension and other traffic violations. During the traffic stop, Dewberry stated his name was Ronald Clay and provide a false social security number and date of birth. The arresting officer discovered who Dewberry was, and he was charged with Falsification. On August 9, 2006, Dewberry pled no contest to the Falsification and Driving Under Suspension charges in exchange for the other traffic violations being dismissed, and was subsequently found guilty. Dewberry was sentenced to 60 days confinement on both charges with a one year driving suspension, and the time was ordered to run concurrently with each other and the DUI conviction.

- #2 **Condition #7: You shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;**

On December 19 and December 21, 2005, January 3, and January 30, 2006, Dewberry submitted urine specimens which returned positive for usage of marijuana. The December 19 and December 21, 2005 urine specimens were considered part of the same usage.

- #3 **Condition #2: You shall report to the probation officer as directed by the Court or probation officer, and shall submit a truthful and complete written report within the first five days of each month;**

Dewberry failed to report in the months of June and July 2006, nor did he submit written monthly supervision reports for those months as required. Dewberry last reported for supervision on May 1, 2006 and has been in custody since July 26, 2006.

- #4 **Special Condition-The supervised releasee shall complete 75 days of home confinement with electronic monitoring. The supervised releasee shall comply with the conditions of home confinement and electronic monitoring adopted by the Southern District of Ohio. Further, the supervised releasee may be required to wear an electronic device and shall remain at his place of residence, except for employment, treatment, or other activities approved in advance by the probation officer. The fees of the electronic monitoring services may be waived based on the probation officer's review of the defendant's financial condition.**

On February 9, 2006, this officer met with Dewberry concerning his continued positive urine specimens and the arrest for Driving Under the Influence. At the meeting, this officer proposed a 90 day halfway house modification as a sanction. This officer explained to Dewberry his right to consult with counsel and his right to a modification hearing. Dewberry stated he understood his rights and wanted to exercise his right to consult with an attorney.

This officer contacted W. Kelly Johnson about the situation, and he agreed to meeting with Dewberry. Dewberry and Mr. Johnson met about the issue, and Dewberry was advised to agree to the waiver. Dewberry then signed the waiver form. The Court granted the modification on March 1, 2006. On March 21, 2006, Dewberry entered the Talbert House halfway house facility as required. On April 5, 2006, Dewberry was terminated unsuccessfully from the program due to program violations and exhibiting unacceptable behavior towards staff.

As a result, this officer investigated the situation, and determined the termination did not warrant revocation proceedings be initiated, but rather a

modification to electronic monitoring for the balance of the days that went unserved. On April 7, 2006, this officer met with Dewberry and discussed the situation and the modification. This officer again explained his rights to consult counsel and to a modification hearing represented by counsel. Dewberry stated he understood his rights, but stated he wanted to waive his rights as he agreed to the 75 days of home confinement with electronic monitoring. He then signed the waiver form. On April 14, 2006, the Court granted the modification. However, Dewberry failed to make himself available for the electronic monitoring services.

#### **U.S. Probation Officer Recommendation:**

Dewberry is currently in the Hamilton County Justice Center serving his 60 days sentence on the convictions outlined in the violation section of this petition. In addition, he has failed to report since early May 2006, and has used false names, social security numbers, and dates of birth to avoid being apprehended. Furthermore, his violations include not making himself available for the driving intervention program and electronic monitoring. Based on this reasons, this officer is respectfully recommending a warrant be issued for supervised release violation to be served as a detainer, and the term of supervised release be revoked.

The term of supervision should be:

- Revoked.
- Extended for years, for a total term of years.
- Continued based upon the exception to revocation under 18 USC 3563(e) or 3583(d)
- The conditions of supervision should be modified as follows:

I declare under penalty of perjury that

Approved,

the foregoing is true and correct.

Executed on August 28, 2006

by

Robert C. Frommeyer Jr.  
Senior U.S. Probation Officer

John Cole  
Supervising U.S. Probation Officer

Date: August 28, 2006

#### **THE COURT ORDERS:**

- No Action  
The Court finds that there is probable cause to believe the defendant has violated the conditions of his/her probation/supervised release and orders the issuance of a Warrant for his/her arrest.
- The Issuance of an Order to Appear and Show Cause
- The Court finds the defendant can benefit from continued substance abuse treatment and grants an exception to revocation. The supervision term of the defendant is continued under all original terms and conditions.
- Other

Signature of Judicial Officer

August 30, 2006

Date